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| APPLICATION NO. | FIL | LING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO | |
|----------------------------------|-------|------------|-----------------------|-------------------------|-----------------|--|
| 10/672,685 | 0 | 9/26/2003 | Nora Sarvetnick | 18427-001CON2 | 9241 | |
| 7590 06/06/2006 | | 06/06/2006 | | EXAM | EXAMINER | |
| Ivor R. Elrifi | | | GABEL, GAILENE | | | |
| Mintz Levin One Financial Center | | | ART UNIT PAPER NUMBER | | | |
| Boston, MA (| 02111 | | | 1641 | | |
| | | | | DATE MAILED: 06/06/2006 | 5 | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | Application No. | Applicant(s) | | | | | |
|--|---|--|--|--|--|--|--|--|
| Office Action Summary | | 10/672,685 | SARVETNICK ET AL. | | | | | |
| | | Examiner | Art Unit | | | | | |
| • | · | Gailene R. Gabel | 1641 | | | | | |
| · · · · · · · · · · · · · · · · · · · | The MAILING DATE of this communication app | | | | | | | |
| Period fo | • • | | | | | | | |
| WHIC - Exter after - If NO - Failu Any r | ORTENED STATUTORY PERIOD FOR REPLY CHEVER IS LONGER, FROM THE MAILING DATES of time may be available under the provisions of 37 CFR 1.13 SIX (6) MONTHS from the mailing date of this communication. Period for reply is specified above, the maximum statutory period were to reply within the set or extended period for reply will, by statute, eply received by the Office later than three months after the mailing and patent term adjustment. See 37 CFR 1.704(b). | ATE OF THIS COMMUNICATION 16(a). In no event, however, may a reply be tirr rill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE | N. nely filed the mailing date of this communication. D (35 U.S.C. § 133). | | | | | |
| Status | | | | | | | | |
| 1)⊠ | Responsive to communication(s) filed on 26 Se | <u>eptember 2003</u> . | | | | | | |
| • | This action is FINAL. 2b) This action is non-final. | | | | | | | |
| 3) | Since this application is in condition for allowance except for formal matters, prosecution as to the merits is | | | | | | | |
| | closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. | | | | | | | |
| Dispositi | on of Claims | | | | | | | |
| 4)🛛 | Claim(s) <u>1-6</u> is/are pending in the application. | | | | | | | |
| | 4a) Of the above claim(s) is/are withdrawn from consideration. | | | | | | | |
| - | Claim(s) is/are allowed. | | | | | | | |
| • | Claim(s) is/are rejected. | | | | | | | |
| · · · | Claim(s) is/are objected to. Claim(s) <u>1-6</u> are subject to restriction and/or ele | action requirement | | | | | | |
| 0)[| Claim(s) 1-0 are subject to restriction and/or en | ection requirement. | | | | | | |
| Applicati | on Papers | | | | | | | |
| , | The specification is objected to by the Examine | | | | | | | |
| 10)☐ The drawing(s) filed on is/are: a)☐ accepted or b)☐ objected to by the Examiner. | | | | | | | | |
| | Applicant may not request that any objection to the | | | | | | | |
| 11) | Replacement drawing sheet(s) including the correct The oath or declaration is objected to by the Ex | | | | | | | |
| Priority I | ınder 35 U.S.C. § 119 | | | | | | | |
| _ | | priority under 35 U.S.C. § 119(a) |)-(d) or (f). | | | | | |
| 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: | | | | | | | | |
| 1. Certified copies of the priority documents have been received. | | | | | | | | |
| 2. Certified copies of the priority documents have been received in Application No | | | | | | | | |
| | 3. Copies of the certified copies of the prior | ity documents have been receive | ed in this National Stage | | | | | |
| | application from the International Bureau | · | | | | | | |
| * See the attached detailed Office action for a list of the certified copies not received. | | | | | | | | |
| | | | | | | | | |
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| Attachmen | t(s) | _ | | | | | | |
| | e of References Cited (PTO-892) e of Draftsperson's Patent Drawing Review (PTO-948) | 4) Interview Summary Paper No(s)/Mail Da | | | | | | |
| 3) Infor | nation Disclosure Statement(s) (PTO-1449 or PTO/SB/08) r No(s)/Mail Date | 5) Notice of Informal P 6) Other: | Patent Application (PTO-152) | | | | | |

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DETAILED ACTION

Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - Claims 1 and 2, drawn to a viable population of pancreatic progenitor cells, classified in class 435, subclass 377, for example.
 - II. Claims 3-6, drawn to method of isolating pancreatic progenitor cells, classified in class 436, subclass 7.2, for example.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the population of pancreatic progenitor cells can be made by contacting pancreatic cells with any anti-pancreatic progenitor cell antibodies immobilized into magnetic beads and isolating the progenitor cells using negative cell selection method.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper. Furthermore, because the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper. Literature search for each method and product is distinct since the

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structural requirements of each invention are different. While searches would be expected to overlap, there is no reason to expect the searches to be coextensive.

2. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gailene R. Gabel whose telephone number is (571) 272-0820. The examiner can normally be reached on Monday, Tuesday, Thursday from 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long V. Le can be reached on (571) 272-0823. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gailene R. Gabel Patent Examiner Art Unit 1641 May 31, 2006